

Message Text

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LIMITED OFFICIAL USE SECTION 1 OF 2 GENEVA 6399

E.O. 11652: N/A

TAGS: PARM, CCD

SUBJ: CCD - FOURTEENTH ENMOD WORKING GROUP MEETING,
AUGUST 6, 1976

REF: GENEVA 6359

1. SUMMARY: WORKING GROUP NEARED AGREEMENT ON ARTICLE V
PROVISIONS ON CONSULTATIVE COMMITTEE. CANADA PRESSED
PROPOSAL TO AMEND SECURITY COUNCIL PROVISION. US APPEARED
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TO BE LONE HOLDOUT ON PROVISION THAT WOULD ALLOW AUTOMATIC

CONVENING OF REVCON SUBSEQUENT TO FIRST ONE. UK UNHELP-
FULLY PROPOSED ALTERATION OF OSTENSIBLY-AGREED COMPROMISE
TEXT OF ARTICLE IV (DOMESTIC IMPLEMENTATION), US AGAIN
RESERVING POSITION. CO-SPONSORS PRESENTED WORKING TEXT
OF ARTICLE II WITH ILLUSTRATIVE LIST OF PHENOMENA SHIFTED
TO ANNEX. NETHERLANDS STRESSED ITS PERSISTING PROBLEMS
OVER QUESTION OF LEGAL EFFECT OF AMENDMENTS TO LIST,
PRECIPITATING EXTENDED AND INCONCLUSIVE DISCUSSION.
WORKING GROUP AGREED TO CONTINUE MEETINGS STARTING
AUG. 13 . END SUMMARY

2. FOURTEENTH ENMOD WORKING GROUP MEETING BEGAN WITH
DISCUSSION OF COMPROMISE ARTICLE VII BIS (REVIEW CON-
FERENCES; TEXT CONTAINED PARA 15 REFTEL). YUGOSLAVIA,
INDIA, GDR, ITALY, NETHERLANDS, UK, EGYPT, AND JAPAN
ANNOUNCED SUPPORT. US ALT REP (BLACK) ANNOUNCED SUPPORT
FOR FIRST TWO PARAS BUT RESERVED POSITION ON THE THIRD
PARAGRAPH, AD REFERENDUM TO WASHINGTON. (DEL'S COMMENTS
AND RECOMMENDATIONS WILL BE SENT SEPTTEL).

3. UPSETTING WIDESPREAD IMPRESSION (INCLUDING OURS)
THAT INDIAN COMPROMISE VERSION WOULD BE ACCEPTED BY
WORKING GROUP, UK REP (ALLEN) PROPOSED FOLLOWING RE-
ORDERING OF TEXT OF ARTICLE IV: "EACH STATE PARTY TO THIS
CONVENTION UNDERTAKES TO TAKE ANY MEASURES IN ACCORDANCE
WITH ITS CONSTITUTIONAL PROCESS, WHICH IT CONSIDERS
NECESSARY TO PROHIBIT AND PREVENT ANY ACTIVITY IN VIO-
LATION OF THE PROVISIONS OF THE CONVENTION ANYWHERE
UNDER ITS JURISDICTION OR CONTROL." INDIAN REP (MISHRA),
ALONG WITH SEVERAL OTHERS, ACCEPTED UK PROPOSAL. US DEL
RESERVED POSITION PENDING RECEIPT OF INSTRUCTIONS.
(DEL'S COMMENTS SEPTTEL).

4. PURSUANT TO STATE 192918, US ALT REP (BLACK)
ANNOUNCED ACCEPTANCE OF EGYPTIAN PROPOSAL TO ADD ARABIC TO
ARTICLE IX AS ONE OF OFFICIAL LANGUAGES OF ENMOD CON-
VENTION, NOTING THAT THIS IS WITHOUT PREJUDICE TO US
POSITION ON PROLIFERATION OF UN LANGUAGES.

5. NETHERLANDS REP (VAN DER KLAUW) ANNOUNCED THAT
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CONTACT GROUP HAD REACHED AGREEMENT ON SUBSTITUTE LAN-
GUAGE FOR US PROPOSALS (PARA 5 REFTEL) REGARDING PRO-
VISIONS IN ARTICLE V AND ANNEX REGARDING CONSULTATIVE
COMMITTEE. AGREED TEXTS (ORIGINATED BY US AND SLIGHTLY
AMENDED BY USSR AND NETHERLANDS) ARE AS FOLLOWS: (A)
SUBSTITUTE SENTENCE IN PARA 2 OF ARTICLE V: "THE COMMITTEE
SHALL TRANSMIT TO THE DEPOSITARY A SUMMARY OF ITS
FINDINGS OF FACT, INCORPORATING ALL VIEWS AND INFORMATION

PRESENTED TO THE COMMITTEE DURING ITS PROCEEDINGS."

(B) PARA 1 OF ANNEX: "THE CONSULTATIVE COMMITTEE OF EXPERTS SHALL UNDERTAKE TO MAKE APPROPRIATE FINDINGS OF FACT, AND PROVIDE EXPERT VIEWS, RELEVANT TO ANY PROBLEM RAISED PURSUANT TO PARAGRAPH 1 OF ARTICLE V OF THIS CONVENTION BY THE STATE PARTY REQUESTING THE CONVENING OF THE COMMITTEE." (C) PARA 5 OF ANNEX: "EACH EXPERT SHALL HAVE THE RIGHT, THROUGH THE CHAIRMAN, TO REQUEST FROM STATES AND FROM INTERNATIONAL ORGANIZATIONS SUCH INFORMATION AND ASSISTANCE AS THE EXPERT CONSIDERS DESIRABLE FOR THE ACCOMPLISHMENT OF THE COMMITTEE'S WORK."

6. SWEDISH, ARGENTINE, INDIAN, USSR, AND UK REPS ACCEPTED REVISIONS; ITALIAN REP (DE BERNARDO) RESERVED WHILE AWAITING INSTRUCTIONS. US DEL EXPRESSED APPRECIATION FOR CONTACT GROUP'S EFFORTS IN REACHING ACCEPTABLE ACCOMMODATION.

7. CANADIAN REP (SIMARD) RESTATED EARLIER PROPOSAL TO REWORD BEGINNING OF ORIGINAL ARTICLE V(2), WHICH WILL BECOME ARTICLE V(3) IN NEX TEXT, TO READ AS FOLLOWS: "ANY STATE PARTY TO THIS CONVENTION WHICH HAS REASON TO BELIEVE..." AND REMINDED CO-SPONSORS THEY HAD NOT YET RESPONDED. HE ARGUED THAT PROPOSAL REPRESENTS IMPROVEMENT OVER ORIGINAL TEXT, BECAUSE CIRCUMSTANCES MAY ARISE IN WHICH A STATE PARTY STRONGLY SUSPECTS A VIOLATION, BUT DOES NOT HAVE SUFFICIENT PROOF TO CONCLUDE "THAT ANY OTHER STATE PARTY IS ACTING IN BREACH OF OBLIGATIONS." ITALIAN (DE BERNARDO) AND UK (ALLEN) REPS SUPPORTED THE CANADIAN PROPOSAL; USSR REP (LIKHATCHEV) RESERVED HIS POSITION PENDING RECEIPT OF INSTRUCTIONS. (DEL'S COMMENTS SEPTTEL).

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8. US ALT REP (BLACK), ON BEHALF OF US AND USSR, PRESENTED CO-SPONSORS' PROPOSED REVISION OF ARTICLE II, MOVING ILLUSTRATIVE LIST OF EXAMPLES TO AN ANNEX (TEXTS AT END OF CABLE). PROPOSAL, BLACK SAID, RESPONDED TO INTEREST STATED BY A NUMBER OF DELS TO REMOVE THE ILLUSTRATIVE LIST FROM THE BODY OF THE TREATY TEXT. HE ALSO EXPLAINED THAT THE EXAMPLE "CHANGES IN CLIMATE PATTERNS" HAD BEEN SHIFTED TO FOLLOW IMMEDIATELY "CHANGES IN WEATHER PATTERNS," IN EFFORT TO MAKE SEQUENCE OF EXAMPLES CLEARER AND MORE LOGICAL.

9. ARGENTINE, BRAZILIAN, NETHERLANDS, AND ITALIAN DELS EXPRESSED APPROVAL IN PRINCIPLE, EACH RAISING ADDITIONAL POINTS REFLECTING PREVIOUS POSITIONS. ARGENTINE REP (BERASETEGUI) RESTATED CALL FOR EXPANDING LIST OF

EXAMPLES, TO MAKE SURE THAT LIST IS TRULY ILLUSTRATIVE OF ALL ENVIRONMENTAL AREAS COVERED BY THE ARTICLE II DEFINITION. HE MAINTAINED THERE SHOULD BE NO DIFFICULTY IN ADDING EXAMPLES WHICH MAKE OVERALL DOCUMENT MORE STAISFACTORY, AND ARGUED THAT THE EXAMPLES, ALTHOUGH ILLUSTRATIVE, ARE "POINTERS": IF AN EXAMPLE IS MENTIONED, THE READER KNOWS QUITE CLEARLY THAT IT IS ONE OF THE TECHNIQUES WHICH WOULD BE PROHIBITED IF IT FULFILLS THE CRITERIA OF ARTICLE I. (COMMENT: BERASATEGUI IS APPARENTLY NOT CLEAR THAT EXAMPLES ARE OF PHENOMENA, NOT TECHNIQUES.)

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10. BRAZILIAN REP (MASTROGIOVANNI) STATED THAT BRAZIL REMAINS OPPOSED TO ADDING NEW EXAMPLES, BUT THAT THE USE OF AN ANNEX WOULD FACILITATE ADDING EXAMPLES AT THE TIME OF A REVIEW CONFERENCE, IF IT WAS FELT NECESSARY TO DO SO. ITALIAN REP (DI BERNARDO) REPEATED SUGGESTION TO LIMITED OFFICIAL USE

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ADD "OR AFFECTING" AFTER THE WORD "CHANGING" IN THE ARTICLE II DEFINITION. NETHERLANDS REP (VAN DER KLAUW) THANKED US AND USSR FOR MOVING EXAMPLES TO ANNEX, BUT WAS DISAPPOINTED THAT NO NEW EXAMPLES HAD BEEN ADDED; IF THIS WERE TO REMAIN THE CASE, HE WOULD LIKE TO SEE THE WORDS "FOR INSTANCE" INSERTED IN THE ANNEX, SO THAT IT WOULD READ "ILLUSTRATIVE EXAMPLES...ARE, FOR INSTANCE, EARTHQUAKES..."

11. INDIAN REP (MISHRA) SAID NETHERLANDS SUGGESTION WAS SUPERFLUOUS, BECAUSE WORD "ILLUSTRATIVE" IS IN ITSELF SUFFICIENT TO CARRY THE MEANING INTENDED. HOWEVER, HE RECOMMENDED ADDING A SECOND SENTENCE TO THE ANNEX: "THE FACT THAT AN EXAMPLE IS NOT LISTED ABOVE DOES NOT IMPLY THAT IT CANNOT ATTRACT THE PROVISIONS OF ARTICLE I IF USED IN THE MANNER SPECIFIED THEREIN." MISHRA CONCEDED THAT THIS LANGUAGE COULD BE IMPROVED, BUT SAID IT CONVEYED THE BASIC IDEA HE INTENDED.

12. NETHERLANDS REP (VAN DER KLAUW) ADVOCATED SOME WAY OF ENSURING THAT THE LIST OF EXAMPLES CONTAINED IN THE ANNEX IS NOT CONSIDERED AN INTEGRAL PART OF THE CONVENTION, DECLARING THAT IF NECESSARY HE WOULD BE WILLING TO CALL IT AN ACCOMPANYING MEMORANDUM OR SOMETHING TO THAT EFFECT. HE AGAIN CITED PROBLEMS RELATED TO PARTIES' ACCEPTANCE OF REJECTION OF PROPOSED AMENDMENTS TO LIST, STRESSING DIFFICULTY IN HAVING SOME PARTIES BOULD BY ONE LIST AND SOME BY ANOTHER. SWEDISH REP (HAMILTON) AND ITALIAN REP (DI BERNARDO) SUPPORTED DUTCH VIEW. MEXICAN REP (CAMPOS-ICARDO) THOUGHT NETHERLANDS PROPOSAL WAS TO SOME DEGREE JUSTIFIED, BECAUSE IT WOULD THEN BE EASIER TO MAKE THE LIST MORE COMPLETE. CANADIAN REP (SIMARD) ANALYZED THAT IF THE LIST OF EXAMPLES IS ADOPTED IN THE SAME MANNER AS THE CONVENTION ITSELF, IT WOULD AUTOMATICALLY BE PART OF IT; THAT THE MOST IMPORTANT CONCERN IS THAT THE LIST BE ILLUSTRATIVE, AND THAT THIS HAS BEEN TAKEN CARE OF; THAT IS DESIRED,

THE CONVENTION COULD SPECIFY A DIFFERENT AND LESS DEMANDING
PROCEDURE FOR AMENDING THE LIST THAN FOR AMENDING THE
CONVENTION ITSELF; BUT THAT, IN ANY CASE, THERE IS NO
WAY OF AVOIDING THE POSSIBILITY OF RESERVATIONS.
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13. INDIAN REP (MISHRA) ASKED HOW THE LIST WOULD BE
AMENDED IF IT WERE NOT CONSIDERED PART OF THE CONVENTION.
IN RESPONSE, NETHERLANDS REP (VAN DER KLAUW) SAID THAT
SUCH A LIST COULD BE CHANGED BY "AGREED MINUTES OF THE
REVIEW CONFERENCE," AVOIDING THE QUESTION OF RATIFICATION.
IN REBUTTAL, HOWEVER, MISHRA DECLARED THAT IS WOULD NOT
BE EASY FOR A REVCON TO AMEND OR EXPAND THE LIST OF
EXAMPLES, BECAUSE SOME DELS WOULD HAVE VERY STRICT
INSTRUCTIONS. BULGARIAN REP (GRINBERG) DECLARED THAT A
REVCON IS NOT THE WAY TO REGULATE THE TREATY REGIME.
IF IT WAS THE INTENTION OF SOME THAT REVCONS WOULD
APPROVE AMENDMENTS BY VOTING, HE WISHED TO REMIND THEM
THAT AMENDMENT PROCEDURES ARE SET FORTH IN THE CONVEN-
TION ITSELF, AND THAT IN ANY CASE AMENDMENTS ARE NOT
VALID FOR THOSE NOT ACCEPTING THEM. A REVCON, HE SAID,
SHOULD NOT BE THOUGHT OF AS A WAY OF AMENDING THE CON-
VENTION, EVEN IN REGARD TO AN ANNEX LISTING EXAMPLES OF
ENMOD TECHNIQUES. (US DEL'S DISCUSSION OF ARTICLE II
PROBLEMS WILL FOLLOW IN SEPTTEL).

14. NOTING CCD DECISION TO EXTEND WORKING GROUP'S
MEETINGS BEYOND AUGUST 6 TARGET DATE, GROUP AGREED TO
RECONVENE FRIDAY, AUGUST 13.

15. CO-SPONSORS' PROPOSAL FOR ARTICLE II AND RELATED
ANNEX FOLLOWS.

BEGIN TEXT:

ARTICLE II

AS USED IN ARTICLE I, THE TERM "ENVIRONMENTAL
MODIFICATION TECHNIQUES" REFERS TO ANY TECHNIQUE FOR
CHANGING -- THROUGH THE DELIBERATE MANIPULATION OF
NATURAL PROCESSES -- THE DYNAMICS COMPOSITION OR
STRUCTURE OF THE EARTH, INCLUDING ITS BIOTA, LITHO-
SPHERE, HYDROSPHERE AND ATMOSPHERE, OR OF OUTER SPACE,
SO AS TO CAUSE PHENOMENA ILLUSTRATIVE EXAMPLES OF WHICH
ARE SET FORTH IN ANNEX (BLANK).

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ANNEX (BLAND)

ILLUSTRATIVE EXAMPLES OF PHENOMENA WHICH MAY BE CAUSED BY THE USE OF ENVIRONMENTAL MODIFICATION TECHNIQUES AS DEFINED IN ARTICLE II OF THIS CONVENTION ARE EARTH-QUAKES; TSUNAMIS; AN UPSET IN THE ECOLOGICAL BALANCE OF A REGION; CHANGES IN WEATHER PATTERNS (CLOUDS, PRECIPITATION, CYCLONES OF VARIOUS TYPES AND TORNADIC STORMS); CHANGES IN CLIMATE PATTERNS; CHANGES IN THE STATE OF THE OZONE LAYER; CHANGES IN THE STATE OF THE IONOSPHERE; AND CHANGES IN OCEAN CURRENTS. END TEXT.
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